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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,336	09/07/2000	Dominique P. Bridon	REDC-1511 USA	2073

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MORRISON & FOERSTER LLP  
425 MARKET STREET  
SAN FRANCISCO, CA 94105-2482

EXAMINER

PARKIN, JEFFREY S

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 08/21/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/657,336

Applicant(s)

BRIDON, D. P., ET AL.

Examiner

Jeffrey S. Parkin, Ph.D.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 01 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2000.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### Restriction Requirement

#### 35 U.S.C. § 121

1. Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- a. Group I, claim(s) 1-7 and 19-21, drawn to a **human immunodeficiency virus (HIV)** antiviral peptide, classified in class 424, subclasses 188.1 and 208.1.
- b. Group II, claim(s) 1, 8-10, and 22-24, drawn to a **human respiratory syncytial virus (RSV)** antiviral peptide, classified in class 424, subclass 211.1.
- c. Group III, claim(s) 1, 11-13, and 25-27, drawn to a **human parainfluenza virus (HPIV)** antiviral peptide, classified in class 424, subclass 211.1.
- d. Group IV, claim(s) 1, 14-16, and 28-30, drawn to a **measles virus (MV)** antiviral peptide, classified in class 424, subclass 212.1.
- e. Group V, claim(s) 1, 17, and 18, drawn to a **simian immunodeficiency virus (SIV)** antiviral peptide, classified in class 424, subclasses 188.1 and 208.1.

2. The inventions are distinct, each from the other because of the following reasons:

3. Inventions I-V are all unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (M.P.E.P. § 806.04 and § 808.01). In the instant case, each of the designated groups is directed toward structurally and functionally different amino acid sequences, thereby necessitating separate searches for each peptide. Accordingly, each peptide is clearly directed toward a different inventive entity. Applicants are further advised, that the various SEQ ID NOs.: and attendant peptides set forth in each group also constitute independent and distinct inventions for the reasons set forth *supra*. For example, Group I also recites DP107,

DP178, and various peptides bearing SEQ ID NOs.: 1-9. Applicants are required to elect a single sequence identifier with each group. This is not a species election requirement, but a restriction requirement. Each peptide identified has a different amino acid sequence and attendant chemical and immunological properties which will necessitate separate searches for each peptide.<sup>1</sup>

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, recognized divergent subject matter, and require separate searches, restriction for examination purposes as indicated is proper.

5. Applicants are advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 C.F.R. § 1.143). Applicants are also advised that the claims should be amended to reflect the election, where necessary.

6. Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(I).

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<sup>1</sup> Applicants are advised that the Examiner would consider examining more than one sequence identifier, up to a maximum limit of five, provided that each sequence identifier corresponds to the same parent peptide. For instance, if SEQ ID NOs.: 2-5 constitute peptides having single amino acid additions, deletions, or substitutions of the parent peptide bearing SEQ ID NO.: 1, these peptides would also be considered for examination on the merits. However, if the peptides do not closely correspond to the same parent peptide, they will not be examined.

*Correspondence*

7. The Art Unit location of your application in the Patent and Trademark Office has changed. To facilitate the correlation of related papers and documents for this application, all future correspondence should be directed to **art unit 1648**.

8. Correspondence related to this application may be submitted to Group 1600 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Official communications should be directed toward one of the following Group 1600 fax numbers: (703) 308-4242 or (703) 305-3014. Informal communications may be submitted directly to the Examiner through the following fax number: (703) 308-4426. Applicants are encouraged to notify the Examiner prior to the submission of such documents to facilitate their expeditious processing and entry.

9. Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (703) 308-2227. The examiner can normally be reached Monday through Thursday from 8:30 AM to 6:00 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner are unsuccessful, the examiner's supervisors, James Housel or Laurie Scheiner, can be reached at (703) 308-4027 or (703) 308-1122, respectively. Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is (703) 308-0196.

Respectfully,

Jeffrey S. Parkin, Ph.D.  
Patent Examiner  
Art Unit 1648

17 August, 2002